

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

California Waste Oil, Inc.; and,

Alexander Rosenstein, Individually and
as an Officer and Director of
California Waste Oil, Inc.

101 N. Croft Ave, # 210
Los Angeles, California

Registration No: CAL000161289

Respondents.

Docket HWCA 2006-1259

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and California Waste Oil, Inc. and Alexander Rosenstein, Individually and as an Officer and Director of California Waste Oil, Inc. (Respondents) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondents transported hazardous waste with offices located at the following site: 101 N. Croft Ave, # 210, Los Angeles, California (Site).

1.3. Authorization Status. California Waste Oil, Inc. is a registered hazardous waste transporter and Alexander Rosenstein is an Officer and Director of California Waste Oil, Inc., responsible for the conduct of its daily affairs.

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1.4. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.5. Full Settlement. By their respective signatures below, the Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. This Order shall constitute full settlement of the violations alleged below. By agreeing to this Order, the Department does not waive any right to take further enforcement actions within its jurisdiction and involving either of the Respondents or the Site, except to the extent provided in this Order.

1.6. Hearing. Respondents waive any and all rights to a hearing in this matter.

1.7. Admissions. Respondents admit the violations described below.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondents violated Health and Safety Code, section 25201, in that on not less than eleven separate instances between February 2, 2003, and August 13, 2004, Respondents treated hazardous waste (coolant/antifreeze) by mixing said hazardous waste with used oil, without authorization for treatment from the Department.

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3. SCHEDULE FOR COMPLIANCE

3.1. Respondents shall comply with the following:

3.1.1. Restriction. During the period of time beginning on the effective date of this Consent Order and continuing uninterrupted thereafter for two years, Respondent, Alexander Rosenstein, shall not hold any executive, managerial, or supervisory position (including without limitation as an officer or director) in, or take part in any decision making process as to any matter relating to regulatory compliance by any corporation, partnership, proprietorship, limited liability company, trust, or other business organization of any kind or description, that owns, rents, leases, supplies, operates, controls, manages, advises, consults with, supervises, or has any other business or legal relationship with any entity registered or permitted by, or otherwise subject to regulation by, the California Department of Toxic Substances Control.

3.1.2. Respondent, California Waste Oil, Inc., shall not treat hazardous waste nor engage in any other activity related to hazardous waste not expressly authorized by the Department in writing.

3.1.3. Respondents, and each of them, shall comply with all terms, requirements, and conditions set forth in Section 5 (Penalty) below.

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3.2. Submittals. All submittals from any Respondent pursuant to this Consent Order shall be sent to:

Keith Kihara
Supervising Hazardous Substances Scientist
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

3.3. Communications. All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by the appropriate Branch Chief, or his/her designee. No informal advice, guidance, suggestions, or comments shall relieve any Respondent of its obligation to obtain required formal approvals.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with this Order or fails to protect public health or safety or the environment, the Department may:

- a. Modify the document and approve the document as modified, or
- b. Return the document to Respondents with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws. Respondents shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation. In the event that the Department

determines that any circumstance or activity (whether or not pursued in compliance with this Order) is creating an imminent or substantial endangerment to the health or welfare of people on the Site, in the surrounding area, or to the environment, the Department may order Respondents to stop further implementation of this Order for such period of time as is needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this paragraph shall be extended by the term of such Stop Work Order.

3.7. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of Respondents' operations, except as provided in this Order. Respondents may be required to take such further actions as are necessary to protect public health or welfare, or the environment.

3.8. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any other agency having jurisdiction. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondents in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

3.9. Sampling, Data, and Document Availability.

3.9.1. Respondents shall permit the Department and/or its authorized representatives to inspect and copy all sampling, testing, monitoring, and/or other data (including, without limitation, the results of any such sampling, testing and monitoring) generated by Respondents, or on Respondents' behalf, in any way pertaining to work undertaken pursuant to this Order.

3.9.2. Respondents shall allow the Department and/or its authorized representatives to take duplicates of any samples collected by Respondents pursuant to this Order. Respondents shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondents for a minimum of six years after the conclusion of all activities under this Order.

3.9.3. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondents shall either:

- (a) comply with that request,
- (b) deliver the documents to the Department, or
- (c) notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order and permit the Department to copy the documents prior to destruction.

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3.10. Government Liabilities. Neither the State of California nor the Department shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents, or related parties, in carrying out activities pursuant to this Order. Neither the State of California nor the Department shall be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to the Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports submitted by Respondents pursuant to this Order, and approved by the Department, are hereby incorporated into this Order.

3.12. Extension Requests. If Respondents are unable to perform any activity or submit any document within the time required under this Order, Respondents may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals. If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

4. OTHER PROVISIONS

4.1. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondents to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

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4.2. Parties Bound. This Order shall apply to and be binding upon Respondents, jointly and severally, and their officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.3. Privileges. Nothing in this Agreement shall be construed to require any party to waive any privilege. However, the assertion of any privilege shall not relieve any party of its obligations under this Order.

4.4. Time Periods. "Days" for the purpose of this Order means calendar days.

4.5. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. The Respondents and the Department agree that Respondents' penalty, jointly and severally, shall be \$25,000.

5.2. Respondents, jointly and severally, shall pay the sum of \$1,000 within 30 days of the effective date of this Order.

5.3. In the event that Respondents do not comply with the provisions of paragraph 3.1.1 above, payment of the balance of the penalty set forth at paragraph 5.1 above is due, without further notice, in full within 60 days of the effective date of this Order.

5.4. If, on the date which shall be two years after the effective date of this Consent Order, Respondents, and each of them, shall have strictly complied with all of the requirements of this Consent Order and shall have paid all sums required to have been paid by that date pursuant to the terms and conditions of this Consent Order, all unpaid sums then due shall be forgiven.

5.5. Respondents' check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondents and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

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Keith Kihara
Supervising Hazardous Substances Scientist
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

and

James J. Grace
Staff Counsel
Office of Legal Counsel
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

5.6. If Respondents fail to make payment as provided above, Respondents agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: September 8, 2006

Original signed by Alexander Rosenstein
Alexander Rosenstein, Individually and on
behalf of California Waste Oil, Inc.

Dated: September 13, 2006

Original signed by Jan Radimsky
Jan Radimsky
Department of Toxic Substances Control

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